

# NEW HAMPSHIRE STATE BUILDING CODE REVIEW BOARD

## Minutes of Meeting

December 13, 2002

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### Attendance:

Mike Santa, Governors Commission on Disability  
Rep. Bob Clegg, Chairman, designee for the Department of Safety  
Jerry Tepe, Board of Architects, licensed architect  
Ken Andrews, NH Building Officials Assoc., municipal building official  
Tyler Carlisle, Board of Engineers, licensed electrical engineer  
Bob Longchamps, NH Electrical Contractors Business Assoc., licensed  
master electrician  
Corey Landry, NH Assoc. of Fire Chiefs, sitting in for Tom Lambert,  
municipal fire chief  
Tedd Evans, Board for licensing and regulation of plumbers, licensed  
master plumber  
Fred Baybutt, Assoc. General Contractors, contractor non-residential  
Wes Golomb, State energy conservation code office  
Med Kopczynski, Assistant City Manager Keene, NH Municipal  
Association  
Joe Landers, NH Home Builders Association - residential  
John A. Stephen, Attorney, Assistant Commissioner, Dept. of Safety  
Richard Swain, NH Plumbing & Mechanical Contractors Association

### Adoption of Minutes:

Motion was made by Tyler Carlisle to adopt the minutes of the November 2, 2002 meeting. Motion was 2<sup>nd</sup> by Ken Andrews.

Correction: Tedd Evans - on page 2 of 5 under the Plumbing Board Rule Report the way it should be is: Tedd Evans passed around copies of Interim Rules accepted by JLCAR. Four amendments, A through D, were accepted and are pretty much boiler plate. A is about inserting the name of the jurisdiction in place; B has to do with supplying an offense, or **committing** a code violation, and C is a penalty for doing that . . ." (the rest is the same as in minutes).

Tedd Evans asked if members should try and make changes to Evvy before the final version is ready to be voted on. The Chairman stated that was the best way.

Vote was taken on approving the minutes as **amended** and was in the affirmative. The Chairman so declared.

#### **Old Business:**

##### **Report on Height and Area Limitation sub-committee:**

Ken Andrews: Copies of the sub-committee's report were passed out to each Board member for review. Section 506 is what it would look like in the new building code and the following three pages individualize what we are taking out of the building code and replacing it with. Our proposal on amendments 2, 3 and 4 are to replace the IBC section with the BOCA section. The sub-committee worked on a replacement for Table 503, it would be a Table for Table transfer. And as such, the sub-committee is submitting these amendments to the State Building Code for the Boards review and eventual approval.

Chairman Clegg asked if there were any comments from the committee. There being none the Chairman state we have to adopt our Rules, and after that is done, and schedule them for public hearing.

##### **Report on Plumber Board Rules:**

Tedd Evans: There is nothing new here. They are just waiting for the Rules to be in place in order to present their amendments.

##### **Report on Rules for changes to NH State Building Code:**

Everyone was given copies of the new Rules changes. These changes reflect the comments from the last 2 or 3 meetings on how our Board would be dealing with all the issues including public hearings and changes. These Rule changes will be Exhibit A.

Marta Modiglioni: While she did incorporate all the changes, she added a new definition the Board has not been given. And that is the definition of De Novo. De Novo is on page 1 of Exhibit A, Chapter 201.

Tyler Carlisle: Will this be the entire organizational rules for the committee, or will there be other sections added afterward?

Chairman Clegg: Typically, as we go along, if we find we need more rules, we can add them. This will be what we start with, unless we find out that we have problems.

Ken Andrews made a **motion** to accept and approve the Rules as presented to the Board today, listed as Exhibit A. Motion was seconded

by Fred Baybutt. There being no further discussion, vote was taken. Vote was unanimous and so declared by the Chair.

**Hearing Process with Rules:**

John Stephen stated that Wynn Arnold from the Attorney General's office could not attend today's meeting, and he was sitting in for him as counsel. Reminded everyone that Wynn is available for any legal advice/assistance needed.

As the Rules have just now, been adopted by the Board, in order to have a change to the Building Code, a petition now has to be sent to the Chairman or the Board. The Rules can be waived with a vote of the Board. Then there is a public hearing and a vote of the Board. Then the Board can decide not to have a public hearing, or you can decide to adopt it if it is an emergency measure and have a public hearing within the 60 day time frame that is in the Rules.

Chairman Clegg: Does the Committee believe that we need a public hearing?

Ken Andrews made the **motion** that the Board have a public hearing and waive the Rule of petition and accept this as a petition. Motion was seconded by Jerry Tepe.

Discussion: Ken Andrews - this really is a major change to the State Building Code. A lot of the stuff might be real minor in the future, but because the magnitude of these changes, a public hearing should be held so the public could have their input and go forward.

There being no further discussion, Chairman Clegg asked for a vote on Ken Andrews motion to waive the petition requirements, and hold a public hearing. Vote was unanimous, and so declared by the Chair.

Wes Golomb handed out 2 items for the Board to review. A letter from ASHRAE stating that their standards are not codes, to clarify the definition. And the proposed changes from PUC Energy Codes office to IECC 2000 - Chapter 9 (referenced standards), page 184 from ~~ASHRAE/IES-93 Energy Code for Commercial and High Rise Residential Buildings Based on ASHRAE/IES 90-1-1989~~ to **ASHRAE/IES-93 Energy Code for Commercial and High Rise Residential Buildings -- Based on ASHRAE/IES 90-1-1999.**

Wes Golomb made the **motion** to waive the petition and have a public hearing on the issue of adopting ASHRAE standard 90-1-1999. Tyler Carlisle seconded the motion. There being no discussion the Chair asked for a vote. Vote was unanimous and so ruled by the Chair.

**New Business:****Judicial Training Program:**

John Stephen informed the Board of a training program that is available. He handed out the notice of the training from the Attorney Generals office. He thought it might be beneficial to the Board.

**Technical Corrections Bill:**

Chairman Clegg reported that today was the last day to make any changes/recommendations.

Jerry Tepe stated that of concern was the applicability of the State Building Code, it could potentially could have adverse effects on numerous projects that are in the works that would not have met any of the criteria as listed.

Ken Andrews his concern was with the enforcement authority. Chairman Clegg asked if there was something in the legislation that stops them from enforcing the State Building Code. Ken stated no. Chairman Clegg stated that the Board has adopted the entire IBC code. The beginning part of that gives the right to enforce.

Discussion Gary Bernier from the NH Municipal Association: At the time municipalities adopted their local enforcement measures, the State Building Code did not exist. If you look at RSA 155-A:7 regarding enforcement, it reads "the local enforcement agency appointed pursuant to RSA 674:51 shall have the authority to enforce the provisions of the State Building Code, provided where there is no building inspector the State Fire Marshal's office . . . " the original one adopted by municipalities did not have the wording of State Building Code in the text and it will now force them to enforce the State Building Code. Another section in RSA 674:51 (I) "the local legislative body may enact as an ordinance or adopt pursuant to 675 2 through 4, additional provisions for the State Building Code construction, remodeling and maintenance of buildings . . . the local legislative body may also enact a process and portion of the State Building Code and any additional regulation there too." The wording requested was something more along the lines of 'municipalities may, at their own option, enforce the State Building Code utilizing the presently available enforcement mechanism', something along that nature.

Discussion Gary Abbott: Not sure if there has been revised language where adoption may be made on any additional international codes, but there is a concern and it should be made clear that they can adopt another version of the international building code other than what this Board has to say, by reference. The last section. Did not want the language left open.

Discussion Med Kopczynski: Their intent was exactly that, for Municipalities to adopt by reference. Those adoptions should be coincidental additions of the Code so that they all work together.

Discussion Gary Abbott: Passed out copies of Rulemaking regarding the applicability of the State Code. At their last meeting, they discussed that there was an error already made. Under 1 and 2, residential was an exemption. And, then clarified, that, if your plans were submitted to a legitimate town body before 9/14, or the State Fire Marshal's office. So with those changes happen, those changes would be acceptable. That eliminated the need for 3 and b we just re-numbered from there.

Discussion Med: Just a question on some of the language. Buildings - it says those buildings 1 and 2 residential, are we defining those as 1 and 2 family?

Discussion Gary Abbott: Originally it was those buildings of 3 or more units. The Committee did not adjust that with the intent that the State Building Code applying to those over 2-family. If the Board wants family in there it would be up to the Board.

Discussion Tyler Carlisle: Asked to have dates put on any future items handed out as well as who it is from.

Chairman Clegg: Those buildings of 1 and 2 residential should say family. The request from the Municipal Association to put something in that allows adoption by reference.

Discussion Gary Bernier NH Municipal Association: Was isn't clear is can municipalities do enforcement with their present enforcement or do they have to adopt a new enforcement mechanism. Adoption by Reference was left out and has been repealed.

Discussion Gary Abbott: Because residential is part of the initial building code that was proposed before it was taken over by the legislature, they removed that municipalities could adopt by reference - so they have to go through a longer procedure. Its additional codes, not changing the State Codes.

Chairman Clegg stated that he will put this part in the Bill. Chairman Clegg will bring the question of the enforcement authority for municipalities to the attorney general's office for comments, and if they ok, it will be included in the first draft of the Bill also.

Discussion Tedd Evans: If municipalities were to adopt different version of the Code - would be changing the Code.

Discussion Ken Andrews: From an enforcement standpoint, the basic need for the State Code is uniformity. Clarification is needed on what is 'more stringent'. If municipalities can still make amendments, and claim locally, that they are more stringent, then nothing has been gained. Everyone will re-write the Code to suit their needs.

Discussion Jerry Tepe: Rather than a ratification, a suggestion might be to allow an aggrieved party to appeal those decisions to this Board.

Passed out were the new Fire Code Rules. Note that BOCA has been removed from most of it. And some reference to the Height and Area Limitations will be added back in to the State Building Code.

Wes Golomb made motion to adjourn. Motion was duly seconded. Vote was in affirmative and so declared by the Chairman.

**Reminder:**

The next Board meeting will be on January 10<sup>th</sup>, 2003. The future meeting will be as follows:

February - 14<sup>th</sup>  
March - 14<sup>th</sup>  
April - 11<sup>th</sup>  
May - 9<sup>th</sup>  
June - 13<sup>th</sup>  
July - 11<sup>th</sup>  
August - 8<sup>th</sup>  
September - 12<sup>th</sup>  
October - 10<sup>th</sup>  
November - 14<sup>th</sup>  
December - 12<sup>th</sup>